CASE#_____

(1)

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
05 29 JUN 25 2005
Supreme Court, U.S
OFFICE OF THE CLERK

CALVIN P. ROACH
PETITIONER

v.

Hon. Judge Desens, Hon. Phillip Espinosa, Pima County, Arizona
County and the State of Arizona

ON PETITION FOR WRIT OF CERTIORARI
FROM NINETH CIRCUIT COURTS OF APPEAL
CASE: CV-04-00001-FRZ

June 26. 2005

October Term beginning October 2004.

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Questions Presented

I. Whether or not the Federal Courts were correct for dismissing a 28 USC 1331 complaint under 42 USC 1983 grounds?

II. Whether the Rooker-Feldman doctrine can be used as a shield for judicial corruption?

III. Whether a Motion to Dismiss can substitute a Motion to Appear for defendants?

List of Parties:

The parties to the Federal Questions are Hon. Judge Desens, Hon. Phillip Espinosa, Pima County, Cochise County and the State of Arizona.

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OPINION

The opinion of the court of appeals CV-04-00001-FRZ in Appendix

CITIATION TO OFFICIAL AND UNOFFICIAL REPORTS

Arizona District Court Decision

Calvin Roach v. Hon. Judge Desens, Phillip Espinosa, State of Arizona, CV-04-00001-FRZ

Ninth Circuit Court Descision,

Calvin Roach v. Hon. Judge Desens, Phillip Espinosa,

State of Arizona, 04-16178

JURISDICTION

The United States Court of Appeals has entered a decision in conflict with the decision of another United States of Appeals and the United States Supreme Court on the same important matter.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Flander v Coleman 1919, 250 US 223
O'Connor v. O'Connor

(1963), 315 F.2d 420
Pulliam, magistrate for the county of Culpeper,
Virginia v. Allen et al, (1984), 466 U.S. 522

Federal Rules of Court Rule 1.7(a)

STATEMENT

This suit arises from several state proceedings against me and other men in civil cases. On January 2, 2004, after learning of judicial prejudice in Arizona Superior Court of Cochise County and the Arizona Courts of Appeals, Division II. I have been threatened by my ex-wife (wife at the time) by a gun on numerous occasions and complained to the Sierra Vista police department, and the police told me that the only way that they would get involve is if I was to get shot, or someone else hear the threat or to try to record her threatening me. I recorded several of our conversations but I did not record her threatening me. I was later but was convicted of domestic violence in trying to protect my life; I continued to represent myself because no attorney would represent me and the conviction was later vacated for United States Constitutional violation. I then submitted the tape I recorded to the State Court after I filed for a divorce. The judge ruled against me. At the same time, I was facing a lawsuit from a local home builder in front of Hon. Judge Collins, another Cochise County Superior Court judge. He initially judge ruled in my favor but after I filed an appeal to my divorce, he changed his ruling and held me liable for more than $12,000 when the defendant requested under $2,000.

I later learned that another Cochise County Superior Court judge ruled against a man based on sex in a divorce hearing stating that the law is to harsh against women so he r[illegible]used to give the man custody of his daughter.

He appeals and received custody of his daughter but the Court of Appeals refused him attorney fees. The Arizona Court of Appeals ruled in the divorce case against me and lied in a few areas so I filed under ***28 USC 1331*** federal question of law. One of the reliefs sought was that the district court has the FBI prosecute the case if I prove that these judges lied to support their court orders. The district court dismissed the complaint under the Rooker-Feldman doctrine and ***42 USC 1983*** but failed to dismiss the complaints against Pima County. But the District court did not grant the State Attorney General request to give the judges immunity. I appealed to the Ninth Circuit court and the Ninth Circuit Court affirmed the district court decision. They also dismissed some of the complaints because they lack merit.

DISCUSSION

Whether or not the Federal Courts were correct when the dismissed a 28 USC 1331 complaint under 42 USC 1983 grounds?

I feel that my complaint should have been heard because the United States Supreme Court stated in **Flanders v. Coleman, 250 US 223, 1919,** that jurisdiction must be determined not upon the conclusion of the merits, instead on the grounds that the jurisdiction is invoked. Since all bias violations by state judges in legal proceeding violate US Constitutional rights, wouldn't that mean that a state judge cannot be punished for his actions while performing judicial duties? If so, that would contradict **PULLIAM, MAGISTRATE FOR THE COUNTY OF CULPEPER, VIRGINIA v. ALLEN ET AL, (1984), 466 U.S. 522**

> ***"n21 The Court assumed that the judge was performing a ministerial rather than a judicial function. It went on to conclude, however, that even if the judge had been performing a judicial function, he would be liable under the statute. 100 U.S., at 348-349"***

For this reason I feel that this case should not be dismissed.

Whether the Rooker-Feldman doctrine can be used as a shield for judicial corruption?

The Rooker-Feldman discusses federal jurisdiction in over-riding state court decisions. If the Rooker-Feldman doctrine is meant to separate federal jurisdiction on all state actions, wouldn't that doctrine contradict a previous United States Supreme Court decision, **PULLIAM, MAGISTRATE FOR THE COUNTY OF CULPEPER, VIRGINIA v. ALLEN ET AL, (1984), 466 U.S. 522.**

> ***"When the question is whether a federal court should enjoin a pending state-court proceeding, "even irreparable injury is insufficient unless itis 'both great and immediate.'" Younger v. Harris, 401 U.S. 37, 46 (1971), quoting Fenner v. Boykin, 271 U.S. 240, 243-244 (1926). See discussion at n.19, infra"***

This case alleges deprivation of federal guaranteed rights and in the case **O'Connor v. O'Connor, (1963), 315 F.2d 420,** the federal courts was given jurisdiction over that case for the same reasons. Because this case deals alleges judicial corruption and the Rooker-Feldman cases dealt with federal courts over-ruling state decisions, I feel that the Rooker-Feldman doctrine doesn't apply.

Whether a Motion to Dismiss can substitute a Motion to Appear for defendants?

Rule 1.7(a) of the Rules of Practice of the United States District Court for the District of Arizona (the Local Rule) states that "no attorney shall appear in any action or file anything in any action without first appearing as counsel of record,..." Attorneys for Hon. Judge Desens and Hon. Judge Espinosa did not file any Motions to Appear before filing several Motions to Dismiss the complaint. These action by the attorneys made it very confusing because each defendant had multiple attorneys.

REASONS FOR GRANTING THIS WRIT OF CERTIORARI

This Writ of Certiorari addresses issues not previous ruled on and alleges judicial biasness and corruption; therefore I request that the United States Supreme Court should grant this Writ of Certiorari.

CONCLUSION

I request that the Ninth Circuit Court decision be over-turned and that this case go to trial.

Respectfully Submitted June 28, 2005.

CASE#_____ (2)

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APPENDICE

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Appendix A

Federal Law Suit Complaints

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

CALVIN ROACH	)	
PRO SE, PLAINTIFF	)	
vs.	)	
STATE OF ARIZONA	)	**Suit for Performance**
And	)	**Abide by State and**
	)	**Federal**
Cochise County	)	**Statutes**
And	)	**and U.S. Constitutions Hon. Hon. Judge**
Desens,)	**Obey the Law**	
Hon. Judge Phillip Espinosa,	)	**and Violations of US**
Pima County,	)	**Constitutional Rights**
	)	
The Court of Appeals	)	
In The State of Arizona	)	
Division II and	)	
The Superior Courts	)	
of Arizona in the County of	)	

Cochise)

Jurisdiction

1. This Court, *District Court of Arizona has jurisdiction over all US* Constitutional issues arising from any State Court in the State of Arizona per 28 USC 1331 and the United States Constitution.

Complaints and Questions:

Violation of US Constitutional Rights and Federal Law

Complaint I

2. Judge Desens, Mr. Raemaker, the attorney that was suppose to represent me and Mr. Farro divided up my military retirement pay incorrectly. I agreed to the stipulation not knowing that the agreement was done in bad faith with fraudulent intent. The division that my attorney conspired with Hon. Judge Desens and the opposing party was just to subtract my disability pay from my total retirement pay. After finding out that the retirement was divided up improperly and under bad faith, the Court of Appeals, Division II refused to correct the issue. That term of the agreement was made in the judge's chambers with by the attorneys and judge. I was intentionally provided misleading information by the attorney and supported by the judge; therefore, the agreement is void. Instead, Hon. Phillip Espinosa stated that it was divided up properly. 10 USC 1408 clearly states that the State can divide disposable amount. The disposable amount as intended by Congress set forth by the 97th Congress in P.L. 97-252 states, **"Disposable retired or retainer pay means the total monthly retired or retainer pay to which a member is entitled (other than retired pay for disability...) less the amounts (A) are owed by the member to the United States; (B) are required by law to be deducted from the retirement or retainer pay (C) are properly withheld Federal, State, or local tax... etc."** There have been changes to 10 USC 1408 since the 97th Congress but none of the changes changed Congress intent. They were clerical changes. Arizona Doesn't 10 USC 1408 mean that disposable pay is not just gross pay minus disability?

Complaint II

3. Judge Desens, an experience Judge ordered me to pay double on Medical and Dental Care for my son and Step-Son. The Judge knew or should have known that my son Jarod is covered as part of my military retirement benefit. Instead of the Judge ruling by law, he ruled what my ex-wife and her attorney desired. The Courts of Appeals overturned that part of Judge Desen's order but did not sanction the Judge. The Order from the Court of Appeals is somewhat confusing as it did not address the fact that my child is receives military entitlement which covers his dental and medical. The Judges in Cochise County often neglects to abide by the law because they know that the Court of Appeals lack judicial fortitude to discipline them. In **Diezsi v. Diezsi, 201 Ariz. 524; 38 P.3d 1189,**

Hon. Judge Hoggart, a Superior Court Judge in the County of Cochise stated that he was not going to abide by the law and he did not in favor for the woman. Mr. Diezsi appealed and the Judge was ordered to obey the law. The Judge was never sanctioned for his part in violating Mr. Diezsi US Constitutional Rights. Do State judges must comply with both State and Federal laws and don't military benefits of Medical and Dental care satisfy the obligation to provide that medical and dental care, especially if those were the vehicle of care that the children has been receiving?

Complaint III

4. Judge Desens and the Court of Appeals allows for State Statutes to be used as a tool to commit fraud. My ex-wife stated under oath coached by her attorney Mr. Farro that she needed $1200 per year to keep my son Jarod enrolled in the program that she enrolled him in to include the summer program. I entered evidence that Terri did not have Jarod enrolled in the programs that she claimed she had also that evidence showed that I paid for his enrollment and finally the amount was nowhere near $1200 a year. The courts either intentionally refused to review the evidence or neglected the evidence so that my ex-wife could perfect using the legal system to commit fraud and or extortion. As childcare rates increases, in the last two years my ex-wife barely used $1200 in childcare cost. In 2002, she used approximately $588.00 and in 2003 she used approximately $747.00, and she never enrolled my son in the summer program that she is receiving the extra money for. Hon. Judge Espinosa and the Court of Appeals stated by there ruling that it is allowable because of State Statute. I am protected under the United States Constitution, mainly the 14th Amendment that no state shall create any law or procedure that will abridge the rights or privileges of a person. The State knowingly allowed Arizona Revised Statutes for illegal enforcement purposes. Can the State create and enforce those laws to perfect fraud? Can the State honor claims amount without evidence of the claim and amount of the claim?

Complaint IV

5. Hon. Judge Espinosa and the Court of Appeals basically misstated Court records in attempt to protect attorney Michael Farro in his spree of making false statements concerning my income and his client's income. The attorney had stated several times that his client made about $2,000 when in fact she made over $3400. When my ex-wife was cross examined about her income Mr. Farro stated that he made a mistake and she made $28XX per month as written in the Court Records. Hon. Judge Espinosa states that the memorandum decision from the Court of Appeals that the attorney stated $3,000. The action by the Court of Appeals and the Superior Court for the County of Cochise lacks integrity and truthfulness. Are State judges allowed to misstate fact that is stated in Court Transcript?

Complaint V

6. Hon. Judge Espinosa agrees that the Hon. Judge Desen failed to abide by Arizona Revised Statute and claims his failure to abide by the statute is not abuse of process. Hon. Judge Espinosa makes claims that because I did not disclose the

fact that Hon. Judge Desen did not abide by the statute that I have no claim. This ruling violates my US Constitutional rights based on the fact that the government is punishing me for errors that was committed by the government thereby the government is using procedures to violate my US Constitutional Rights. The Court of Appeals Memorandum Decision states: **"The trial judge made no specific findings related to custody as required by ARS 25-403(J)."** When the Judge do not follow the law, doesn't he commit abuse of process and isn't abuse of process a violation of United States Constitution. Are Judges allowed to pick and chose which State Statute or sections thereof to follow and can I, a citizen of the United States be held responsible because the Judge failed to follow the State Law?

Complaint VI

7. Hon. Judge Espinosa stated that Hon. Judge Desens made finding only on custody, child support and attorney fees. That is extremely incorrect because the Court publishes its findings. After considering all of the evidence, the Court stated all issues to be enforced. The Court did not divide up any portion of my retirement, an option that the judge have. The attorney after seeing that Hon. Judge Desen did not give his client all he asked for, the attorney just added what he wanted. Can the Court of Appeals say what the Judge ruled on when other than what the Judge made in the findings in the Court Minute Entry?

Complaint VI

8. I am being punished by the State because Terri elected to have an illegitimate child. The Court subtracted my ex-wife's obligation for her illegitimate son from her obligations to our son. By doing that, it increases the percentage that I must pay. The 14th amendment guarantees me Equal Protection of Law. That amount should also be subtracted from my income as well. That way due process is not violated. There is no benefit to the government to allow for this type of abuse. The government is promoting women to have illegitimate children because of the extra benefit obtained. Can the State accept and enforce claims made by individuals that deprive citizens of the United States property without verifying that such claim exists?

Complaint VII

9. The court allows my ex-wife to violate Equal Protection of Law between my son and his half-brother and between myself and my ex-step-son's father. My ex-wife elected not to receive any support from her first born son father but for me to pay child support. There have not been any evidence submitted to the Court why her Justin, her 1st born son, father cannot pay child-support. My support percentage increases because they lower her percentage because she must support her son from a different relationship. The court also allowed her to discriminate between the sons by not allowing her oldest son to have any contact with his father where as my son does have contact with me, his father. This statement should not be taken out of context because I want to be in my son's and ex-stepson's life and have contact with them forever. The children are purposely treated unequal. Can the State allow people to threat children unequal or must the State make the parent treat both

children equal?

Complaint VIII

10. Arizona Child Support Guideline or how the Court enforced the Child Support Guidelines is unconstitutional based on the fact that it abridges my Federal Privileges under the IRS 125 plan also known as the Cafeteria Plan by adding additional monies on top of the base obligations defined in ARS 25-320. The federal government allows all citizens to set aside certain monies from their earning to be taxed exempt for medical, dental and childcare. The State abridges that privilege by adding that money on top of my child-support obligation. The State has ways to tax me for child-care obligations and not abridge my federal privileges. Can the State deprive me of the same rights and privileges of other citizens of the State of Arizona and United States when there are ways for the State to accommodate those privileges and rights, such as have me to receive statement of how much the childcare for the following month is and to pay it the same way I pay portions of my retirement to her?

Complaint IX

11. The Family Court in the State of Arizona has created an unjust atmosphere in the County of Cochise and signaling to women that the Court will discriminate against the man regardless of faults. In **Diezsi v. Diezsi, 201 Ariz. 524; 38 P.3d 1189,** the judge made it clear that he would not enforce the law unless he is forced to, in Stimmel v. Stimmel, I have been told that Hon. Judge Raemaker awarded the woman attorney fees when she never requested that she wanted too. After the judge made the final ruling and she did not get all that she wanted, she then went back and requested attorney fees. In Sierra Homes Remodeling v. Calvin Roach, Hon. Judge Collins ruled that there may be intrinsic fraud committed by Sierra Homes. After I filed my appeal in the divorce case, Hon. Judge Collins reversed his original order in favor to Sierra Homes. Also, Sierra Homes only asked for less than $2,000 in their Summary Judgment. He awarded them more than $10,000. This atmosphere created by the Courts in the State of Arizona that women can treat males at any age any way. On April 11, 2003 about 7PM, my ex-stepson knocked on my door telling me that he wanted to live with me because things his mother has done. I allowed him in and took care of him. His mother never made any attempts to call me to let me know that he were on his way over nor did she have any meaningful communications with him. During his stay with me, he had never spent more than five minutes with his mother other than when she was dropping his clothes and games off. For the longest, I had to but my ex-stepson clothes because he told me that she was holding his stuff for damages. On Justin's birthday (ex-stepson), Terri never made any attempts to be with him. A few weeks after Terri dropped some of Justin's clothes off, Justin cut him-self jumping off the bed into a window. If he would have been cut seriously it would have been hard to get him medical care because I did not have any medical insurance information for him. On April 16, 2003, I had to call Terri to coordinate getting Justin coat. When he came over he was sick, with a cold. Shouldn't the State be obligated to oblige by the law and should those who willfully neglect the law be held responsible, for it is

the State misconduct the reason Terri shows that males at all ages do not have any rights?

Complaint X

12. Can the Court of Appeals state that I admitted to a domestic violence incident when all I have done is state the fact of what happened? I admitted that I hit my ex-wife with a plate. I also submitted in court evidence of a tape that the police told me to make because they would not do anything when I complained to them that my ex-wife had threatened to shoot me and that she'll get away with it because uniform sticks together. I was unsuccessful in recording one of her threats between the time I started recording and the time of the incident. It is too hard to have a pocket tape recorder on at all times or be next to one every minute. In the Court transcript I never admitted guilt. I only admitted that I was sorry. The reason I admitted that was because how I was treated by members in the State legal system. I strongly felt that I should have let her shoot me and hope that I would survive and then I may get justice and due process. I was convicted of domestic violence and the conviction was vacated on US Constitutional violations. Can the Courts hold an incident against me that I was wrongfully convicted and eventually the conviction was vacated?

Complaint XI

13. The State of Arizona Superior Court fro the County of Cochise and the Court of Appeals, Division II makes it common practice to not rule according the State and Federal Law. The Court uses economics for fathers to get adequate time with their child as in **Diezsi v. Diezsi, 201 Ariz. 524; 38 P.3d 1189,** where the father had to spend money for an appeal just to have the Court of Appeal refuse him collecting attorney fees, even though the Government erred. In case D0200000410 and 2 CA-CV 2001-0215, the Court of Appeals and the Cochise County Superior Court caused me money to enjoy my US Constitutional Rights? For the Arizona Supreme Court to review my case, I would have to pay $1,000. Can the Courts in Arizona use economics as a way to prevent fathers from enjoying their US Constitutional Rights and Privileges?

Demands

14. I demand that the trial case # 2 CA-CV 2001-0215 (D0200000410) removed from the Jurisdiction of State Courts of Arizona, County of Cochise and the Court of Appeals Division II that is located in Tucson Arizona and be delivered to a Superior Court in the County of Maricopa and Division I Courts of Appeals in the State of Arizona. All cost related to this case be taxed to Pima County and Cochise County. The State and counties are obligated by Federal Constitution that every citizen of the United States is obliged a fair trial, due process, both administrative and judicial – that processed I was not afforded. This is to include that the Orders giving in this case by the Superior Courts of Arizona and The Court of Appeals be vacated.

15. I demand that all of the Judges and citizens in the State of Arizona to include the Judges that are parties to my divorce case be held responsible for their

malice acts. The United States Constitution gives State judges absolute immunity from civil remedies only.

16. I demand that the State of Arizona be sanctioned and ordered to obey their State laws, rules of procedures and statutes and not to attempt to cover up others misconduct.

17. I demand that the Federal Bureau of Investigation (FBI) or other Federal agency investigate the family court practices of the last seven years that were held in the County of Cochise to determine the extent of damage the Judges of the Superior Court for the County of Cochise has caused as well as fraudulent or bias findings and rulings. Upon final determination Judges that had taken part to misuse the judicial system be held responsible for their acts.

18. I demand that I be protected from the State of Arizona from all criminal and civil allegations that they may try to trump me with arising from prior till the conclusion of this case.

19. I demand that everyone involved that conspired against me by violating 10 USC 1408 and my Constitutional Rights be held responsible under Federal Statutes and Titles.

Dated: 02 Jan 2003

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Appendix B

District Court Decision